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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/777,376	02/11/2004	Thomas M. Doherty	43108.830028.US0	4600

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DENVER, CO 80201

EXAMINER
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GRAHAM, MARK S

ART UNIT	PAPER NUMBER
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3711

DATE MAILED: 03/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/777,376

Applicant(s)

DOHERTY ET AL.

Examiner

Mark S. Graham

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☒ Claim(s) 26 and 27 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>8/3/04</u> . | 6) <input type="checkbox"/> Other: ____  |

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This application has been filed with informal drawings which are acceptable for examination purposes only. Formal drawings will be required when the application is allowed.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

Claims 21-23 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Alston.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 24 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Alston in view of Shelley, Jr (Shelly). Alston discloses the claimed device with the exception of the use of a detachable bucket to collect the balls. However, as disclosed by Shelly it is known in the art to attach a bucket to a collection point on the base of the target to collect balls. It would have been obvious to one of ordinary skill in the art to have collected Alston's balls in the same fashion if it was desired to limit the number of balls the golfer could hit before purchasing another bucket for business purposes.

Claims 1-4, 8, 10, and 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Peterson in view of Waters.

Peterson discloses the claimed device with the exception of a fold in his back portion 50, 58 to collect balls at a central location. However, as disclosed by Waters it is known in the art to provide the back portion of such targets with a fold so that golf balls may be collected at a

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central portion. It would have been obvious to one of ordinary skill in the art to have done the same with Peterson's back portion to collect golf balls.

Regarding claim 4, portion 50 of the back portion is a separate piece of material.

Claims 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 1 above, and further in view of Shelly. Claims 5-7 are obviated for the reasons explained in the claim 1 rejection with the exception of the use of a detachable bucket to collect the balls. However, as disclosed by Shelly it is known in the art to attach a bucket to a collection point on the base of the target to collect balls. It would have been obvious to one of ordinary skill in the art to have collected the balls of the Peterson/Waters device in the same fashion if it was desired to make it easier to transport the captured balls.

Regarding claim 6, Shelly does not disclose the material of his bucket. However, the examiner takes official notice that metal is a commonly known material to make buckets and it would have been obvious to one of ordinary skill in the art to have used such to make Shelly's bucket to make it durable.

Regarding claim 7, Shelly uses a bayonet connection. . However, the examiner takes official notice that zippers are also a commonly known type of fastener. It would have been obvious to one or ordinary skill in the art to have used such on Shelly's bucket if it was desired to make it of a flexible material.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 1 respectively above, and further in view of Sell.

Peterson only provides a back portion target. However, as disclosed by Sell it is known to provide such on the sides as well. In view of Sell's teaching it would have been obvious to

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one of ordinary skill in the art to have provided target sheets of the Peterson/Waters disclosure on the sides of Peterson's device as well.

Claims 11-13 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Peterson in view of Waters and Shelley. Peterson discloses the claimed device with the exception of a fold in his back portion 50, 58 to collect balls at a central location and a bucket. However, as disclosed by Waters it is known in the art to provide the back portion of such targets with a fold so that golf balls may be collected at a central portion. It would have been obvious to one of ordinary skill in the art to have done the same with Peterson's back portion to collect golf balls. Regarding the bucket, as disclosed by Shelly, it is known in the art to attach a bucket to a collection point on the base of the target to collect balls. It would have been obvious to one of ordinary skill in the art to have collected the balls of the Peterson/Waters device in the same fashion if it was desired to make it easier to transport the captured balls.

Concerning claim 12, Shelley's pins 46 may be considered a handle.

Regarding claim 13, portion 50 of the back portion is a separate piece of material.

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 11 above, and further in view of Sell. Peterson only provides a back portion target. However, as disclosed by Sell it is known to provide such on the sides as well. In view of Sell's teaching it would have been obvious to one of ordinary skill in the art to have provided target sheets of the Peterson/Waters disclosure on the sides of Peterson's device as well.

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 15 above, and further in view of Tulipani et al. (Tulipani). Peterson uses loops to attach the enclosure to the frame. However, as disclosed by Tulipani it is also known to use a zipper to

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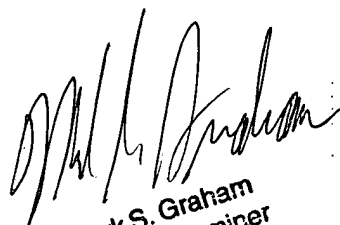
attach the enclosure to the frame. It would have been obvious to one of ordinary skill in the art, in view of Tulipani to have used a zipper as Peterson's attachment means as well if it was desired to better secure the enclosure to the frame.

Claims 26 and 27 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Rhee, Wilson, Sandlin, Stempfer, and Michalec have been cited for interest because they disclose similar devices.

Any inquiry concerning this communication should be directed to Mark S. Graham at telephone number 571-272-4410.

MSG  
2/14/05



Mark S. Graham  
Primary Examiner